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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/081,908

02/21/2002

Laszlo Hars

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08/09/2006

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

PARTHASARATHY, PRAMILA

ART UNIT

PAPER NUMBER

2136

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/081,908	Applicant(s) HARS, LASZLO	
	Examiner Pramila Parthasarathy	Art Unit 2136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-22 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the communication filed on June 02, 2006. Claims 1– 22 were previously presented. No new claims were added. Claims 1 – 22 were amended.

Response to Arguments

2. Applicant's arguments filed on June 02, 2006 have been fully considered.

3. Applicant's arguments, with respect to 35 USC 101 rejection have been fully considered and Examiner maintains the 35 USC 101 rejection of Claims 1 – 14 and 19 – 22. Amended Claims 1 – 14 and 19 – 22 are directed to generating and evaluating random number. Examiner respectfully asserts that the claimed subject matter does not fall within the statutory classes listed in 35 USC 101. Claims 1 – 14 and 19 – 22 are directed to function descriptive material (i.e., software, see instant specification page 5 line 20 – page 12 line 3, in particular “The various steps described above may be implemented by programming them into functions incorporated within application programs, and programmers of ordinary skill in the field can implement them using customary programming techniques in languages, such as C, Visual Basic” (Page 11 line 20 – Page 12 line 3).

Amended Claims 1 – 14 and 19 – 22 are rejected as being directed to functional descriptive material (i.e., computer program).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 – 14 and 19 – 22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims recite a method for performing a mathematical function. The claimed invention comprises a plurality of mental steps whereby the claimed mental steps are non-statutory subject matter. Specifically, the claimed method steps can be practiced mentally in conjunction with pen and paper.

However, in order for such a claimed computer-related process to be statutory, the method claims must include either a step that results: (1) in a physical transformation outside the computer, (2) in a limitation to a practical application, or (3) performed specific machine/element(s). Accordingly, Claims 1 – 14 and 19 – 22 are clearly directed to non-statutory process.

4. Applicant's arguments, with respect to 35 USC 112 rejection have been fully considered but not persuasive. Applicant directs to specification page 8 lines 15 – 17 for the (Applicant's) definition of the term "exponential average". Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Examiner suggests applicant to amend the claims in a manner to distinct applicant's invention. "wherein the exponential average is the exponential average of the expected values of the individual bits: $\frac{1}{2} + \frac{1}{2} a + \frac{1}{2} a^2 + \dots = n/2$ ".

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 8, 13, 14, 17, 18, 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 6, 13, 17 and 21, the limitation "exponential averaging operation" is indefinite because its definition cited in the claim is not exponential average operation but rather the claim expression becomes a linear function count because n is defined as a very large number and the relationship of n parameter is not defined.

Claims 8, 14, 18 and 22 are also rejected for being dependent on the rejected base claims 6, 13, 17 and 21 respectively.

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5. With respect to Double patenting rejection with copending application, Examiner agrees with the Applicant and withdraws the double patenting rejection with Patent 6,675,113. However, Examiner hereby maintains the rejection with patent 6,947,960.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Amended Claims 1 – 22 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 – 21 of U.S. Patent No. 6,947,960. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

A partial correspondence between the instant amended claims and the patent (6,947,960) claims are as follows:

10/069112	6,947,960
<p data-bbox="186 352 922 499">An apparatus comprising: a random generator unit for generating sequences of binary bits;</p> <p data-bbox="186 737 922 884">a detector unit, coupled to an output of the random generator unit, for detecting whether the generated random sequences are unpredictable; and,</p> <p data-bbox="186 1010 922 1650">a switching unit, coupled to the output of the random generator unit and an output of the detector unit, for disabling the flow of the sequences when the generated random sequences are determined to be predictable, wherein the detector unit is configured to: determine an average number of bits that have a value of a predetermined logic value at a specific, predefined range of intervals using exponential averaging operations and determine that the sequence is predictable if the output of the exponential averaging operations falls outside a predetermined acceptance range.</p>	<p data-bbox="948 352 1557 499">An apparatus for evaluating the random numbers generated by a random number generator, comprising:</p> <p data-bbox="948 520 1557 667">a random generator unit for generating random sequences comprising of binary bits;</p> <p data-bbox="948 720 1557 919">a detector unit, coupled to the output of said random generator unit, for detecting whether said generated random sequences are sufficiently random</p> <p data-bbox="948 993 1557 1854">a switching unit, coupled to the outputs said random generator unit and said detector unit, for disabling the flow of said generated random sequences are determined to be insufficiently random, wherein said generated random bits are stored and shifted by a predetermined amount to obtain modified products of bi sequences between said stored random sequences and said shifted random sequences, said modified products applied to exponential averaging operations (A) to determine an average autocorrection value and wherein, if the output of any of said exponential averaging operations (A falls outside a predetermined acceptance</p>

... transmitting an alarm signal when the output of the exponential averaging operation falls outside the predetermined acceptance range.	range, determining that said generated random sequences are insufficiently random ... transmitting an alarm signal when any of the output of said exponential averaging operations (A) falls outside said predetermined acceptance range.
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Conclusion

Allowable Subject Matter

Claims 1 – 22 would be allowable if rewritten or amended to overcome rejections under 35 USC 112 and double patenting rejections, set forth in this office action.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pramila Parthasarathy whose telephone number is 571-272-3866. The examiner can normally be reached on 8:00a.m. To 5:00p.m.. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-232-3795. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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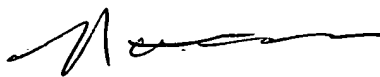
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pramila Parthasarathy

Aug 06, 2006.



NASSER MOAZZAMI
PRIMARY EXAMINER


8/7/06